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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	) CIVIL NO. 11-00403 SOM KSC
	)
Petitioner,	) MAGISTRATE'S FINDINGS AND
	) RECOMMENDATION ON PETITION TO
	) ENFORCE INTERNAL REVENUE
v.	) SERVICE SUMMONS
	)
	)
ROSARIO McNORTON,	)
	)
Respondent.	)
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MAGISTRATE'S FINDINGS AND RECOMMENDATION ON PETITION  
TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS

A hearing was held on Tuesday, November 22, 2011, before the Honorable Kevin S.C. Chang, United States Magistrate Judge, on the Petition to Enforce Internal Revenue Service Summons filed by the United States of America. Harry Yee, Assistant United States Attorney appeared on behalf of the United States. Rosario McNorton, the Respondent, was not present and did not respond.

As of November 22, 2011, Respondent McNorton has not produced the summoned records and documents.

With the Declaration of Revenue Officer Hochman, the government has established a *prima facie* case that the summons is enforceable. All the government needs to do to establish a *prima facie* case for enforcement of a summons is to show that the summons is issued for a legitimate purpose, the data sought may be relevant to that purpose, the data is not already in the Internal Revenue Service's possession, and the administrative steps for issuance and service of a summons have been followed. United States v. Powell, 379 U.S. 48 (1964). The Petitioner's burden of satisfying the Powell requirements is a "slight one" that can be met merely by presenting the sworn affidavit of the agent who issued the summons attesting to these facts. United States v. Dynavac, Inc., 6 F.3d 1407, 1414 (9th Cir. 1993); United States v. Gilleran, 992 F.2d 232, 233 (9th Cir. 1993); Crystal v. United States, 172 F.3d 1141, 1144 (9th Cir. 1999).

Therefore, it is the recommendation of this Court to the United States District Chief Judge that an order be entered as follows:

(1) That the Internal Revenue Service summons served on Rosario McNorton shall be enforced and she shall obey the summons in full on or before 12:00 noon on Thursday, December 22, 2011;

(2) That the respondent shall provide to the United States all documents showing her income, assets, and liabilities for 2007 through 2009 and all bank statements, checkbooks, cancelled checks savings account passbooks, records or certificates of deposit for the period from 1/1/2011 to 3/31/2011;

(3) And that should respondent fail to fulfill either of the requirements of the Court's order then the United States may forthwith move to find respondent in contempt.

DATED: November 28, 2011, at Honolulu, Hawaii.



  
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Kevin S.C. Chang  
United States Magistrate Judge

USA v. Rosario McNorton  
Civil No. 11-00403 SOM KSC  
"Magistrate's Findings and  
Recommendation on Petition  
to Enforce Internal  
Revenue Service Summons"